

In re) Fair Hearing No. 18,293
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Appeal of)
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The petitioner appeals a decision by the Department of Prevention, Assistance, Transition, and Health Access (PATH) finding that she is no longer eligible for Medical coverage under any of the Department's programs, except Healthy Vermonters. The issue is whether the petitioner's income is in excess of the various program maximums.

1. The petitioner lives with her daughter. Her daughter is eligible for medical benefits under the Dr. Dynasaur program. The petitioner is presently disabled and has diabetes which cause her to incur high medical costs on a regular basis.

2. The petitioner receives Workman's Compensation benefits that total \$1,812 per month. She also receives countable child support of \$225 a month after the Department's standard \$50 disregard.

3. The petitioner reapplied for Medicaid and VHAP in January 2003. At that time the Department discovered that it had erroneously failed to count the petitioner's child support in its previous determinations of the petitioner's eligibility. Based on its new determination that the petitioner's net monthly income is \$2,037, the Department found the petitioner eligible for Medicaid only after she incurs a spenddown amount of \$2,926 in the six-month period of eligibility and it found her ineligible for VHAP. She was, however, found eligible for healthy Vermoneters, the Department's reduced-price prescription drug program.

4. The petitioner does not dispute the Department's calculations of her income and benefits. The loss of her VHAP benefits will be a hardship because of her high medical expenses.

ORDER

The decision of the Department is affirmed.

REASONS

The regulations governing the Medicaid and VHAP programs require that an applicant meet certain income eligibility guidelines in order to be eligible. W.A.M. § M350. The petitioner's countable household income, \$2,037 per month,

made her ineligible for Medicaid until she incurs medical expenses over \$2,926. This figure was arrived at by subtracting the income maximum (or "protected income level") applicable to the petitioner from the petitioner's monthly income and multiplying by six (the number of months in the eligibility period). The petitioner does not dispute any of these calculations.

For VHAP, the Department was required to treat the petitioner and her daughter as a household of two persons and to count the income the petitioner receives as child support. W.A.M. § 4001.8. The Department determined that this made the petitioner ineligible for VHAP, which has a two-person income maximum of \$1,869 a month.¹ The petitioner did, however, fall within the income eligibility guidelines (\$4,040 per month maximum) for the Healthy Vermonters program. Procedures Manual § P-2420B.

At the hearing in this matter, held by phone on February 26, 2003, the petitioner was advised to promptly reapply for benefits if her income is reduced. Inasmuch as the petitioner is not far over the income tests she could also consider

¹ Unlike Medicaid, there is no provision under VHAP to deduct medical expenses as a spenddown (or deductible) in order to become eligible. The Board has often commented on the apparent unfairness of the lack of such a feature.

voluntarily reducing her child support to the extent this will make her eligible for VHAP. The petitioner was advised to consult with legal aid or the area office on aging before she takes such a step.

Inasmuch as the Department's decision in this matter was in accord with the pertinent regulations it must be affirmed.

3 V.S.A. § 3091(d), Fair Hearing Rule 17.

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